

STATEMENT OF EMERGENCY
902 KAR 4:150E

This emergency administrative regulation is being promulgated to continue the enhanced HANDS services to include tele-service delivery methods. Per guidance from the Health Resources and Services Administration, Maternal and Child Health Bureau, states are encouraged to offer prevention and family strengthening strategies virtually and through other safe means during the COVID-19 pandemic. Because the global pandemic caused by COVID-19 is ongoing, this emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. to address the imminent threat to public health and safety. This emergency administrative regulation will be replaced by an identical ordinary administrative regulation.

ANDY BESHEAR, Governor
ERIC FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(New Emergency Administrative Regulation)

902 KAR 4:150E. Enhanced HANDS services in response to declared national or state public health emergency.

EFFECTIVE: March 5, 2021

RELATES TO: KRS 13B.080-13B.160, 200.700, 211.090, 211.180, 211.689

STATUTORY AUTHORITY: KRS 194A.050, 211.690

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.690 authorizes the Cabinet for Health and Family Services to implement a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents. This administrative regulation establishes the provisions for providing home visitation through tele-service delivery methods if a national or state public health emergency has been declared.

Section 1. Definitions. (1) “Declared national or state public health emergency” means a formal declaration by the President of the United States or the Governor of Kentucky of an extraordinary event that is determined to constitute a public health risk through the spread of disease.

(2) “Tele-service” means a home visitation service provided through telephone or video communication with the HANDS provider, parent, and child present in real time.

Section 2. Enhanced Home Visitation Services in Response to a Declared National or State Public Health Emergency. (1) HANDS services and requirements may be enhanced to allow for tele-service delivery methods if a national or state public health emergency has been declared.

(2)(a) HANDS home visitation services that are otherwise designated as face-to-face in accordance with 902 KAR 4:120 may be provided through tele-service delivery methods with informed parental consent.

(b) These services include those listed in 902 KAR 4:120, Sections 2(4), 2(5), and 4.

(c) Verbal and written consent shall be provided for each child in a shared household. For example, if the family has twins, verbal and written consent shall be provided for each baby.

(3) Tele-service delivery methods shall be reimbursed at the usual and customary rate.

(4) Tele-service delivery methods in the manner prescribed by this section shall only be utilized during a declared national or state public health emergency.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: March 3, 2021

FILED WITH LRC: March 5, 2021 at 3:44 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 26, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by April 19, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until April 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation establishes the provisions for HANDS home visitation services to continue through tele-service delivery methods during a declared national or state public health emergency.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to ensure HANDS home visitation services continue to be provided during times of a national or state public health emergency when traditional face-to-face service delivery methods may not be available.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.690 establishes the HANDS program within the cabinet for providing assistance to at-risk parents during the prenatal period up to the child's third (3rd) birthday.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation will help to ensure HANDS services can continue to be provided by allowing alternative methods for service delivery that is consistent with the guidance from the Centers for Disease Control and Prevention (CDC) and Health Resources and Services Administration (HRSA).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The HANDS program serves approximately 10,000 families annually. Services are provided through fifty-eight (58) local health departments and three (3) contracted agencies. There are approximately 600 HANDS staff statewide.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Providers electing to provide services through tele-service delivery methods will need to obtain and document informed parental consent for the service delivery method. In addition, providers will need to ensure the voice and video over the internet protocol used for tele-service delivery methods meet the confidentiality requirements of the Health Insurance Portability and Accountability Act, 45 C.F.R. Part 160. Parents will need to make themselves available for the tele-service delivery method, and give informed consent for same.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The costs of providing HANDS services through tele-service delivery methods is unknown at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Children and families will continue to receive needed HANDS support services. Providing services through tele-service delivery methods helps to ensure a continuity of services during a declared national or state public health emergency. There has been much published about the importance of sticking to a routine, especially for families with young children. Tele-service delivery methods will help families to continue with these daily routines while protecting all individuals from any potential exposure to any illnesses.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no ongoing costs for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department for Medicaid Services has issued an administrative regulation, 907 KAR 3:300, that allows reimbursement for telehealth methods of service delivery for services designated as face-to-face services. That will allow the department to seek Medicaid reimbursement for HANDS services provided through tele-service delivery methods. Other sources of funding include state and federal funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in fees or funding is not needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish fees.

(9) TIERING: Is tiering applied? Tiering is not applied as this administrative regulation will affect all families and providers equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Division of Maternal and Child Health within the Department for Public Health, the Department for Medicaid Services, and local health departments providing HANDS services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.690.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will have no impact on costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will have no impact on costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: